

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

GLEN DALE HAMMON,	)	
	)	
Petitioner,	)	
	)	
vs.	)	NO. CIV-22-0410-HE
	)	
STATE OF OKLAHOMA,	)	
	)	
Respondent.	)	

**ORDER**

Petitioner Glen Dale Hammon, a state prisoner appearing *pro se*, filed this case seeking habeas relief pursuant to 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(b)(1)(B) and (C), the matter was referred to Magistrate Judge Shon T. Erwin for initial proceedings. Upon initial review, Judge Erwin determined the petition was an unauthorized second or successive habeas petition and issued a Report and Recommendation recommending that the petition be dismissed for lack of jurisdiction. Petitioner has objected to the Report triggering *de novo review* of the matters to which objection has been made.

Petitioner does not dispute that his current filing is a second or successive habeas petition stripping the court of jurisdiction. Rather, petitioner's objection appears to be a request for the court to transfer the matter to the Tenth Circuit for it to consider whether he should be granted leave to file a second or successive petition. When presented a second or successive § 2254 petition, the court may either dismiss the petition for lack of jurisdiction or transfer it to the Tenth Circuit in the interest of justice pursuant to 28 U.S.C. 1631. "A transfer is not in the interest of justice when the claims raised in the successive

petition clearly do not meet the requirements set forth in 28 U.S.C. § 2244(b)(2). Crawford v. Milyard, 350 Fed. Appx. 240, 242 (10th Cir. 2009) (citing In re Cline, 531 F.3d 1249, 1252 (10th Cir. 2008)).

Petitioner's petition presents two grounds for relief, deficient performance by trial and appellate counsel. Both grounds were presented in petitioner's first petition for habeas relief. *See* Doc. #1, 04-cv-1007. Further, his request to file a second habeas petition to reargue his ineffective assistance of trial counsel was denied by the Tenth Circuit. *See* Doc. #75, 04-cv-1007. The court concludes that the petition does not meet the requirements set forth in § 2244(b)(2).

Accordingly, the court declines to transfer the petition to the Tenth Circuit. The court **ADOPTS** the Report and Recommendation [Doc. #11]. This case is **DISMISSED** for lack of jurisdiction.

**IT IS SO ORDERED.**

Dated this 20<sup>th</sup> day of July, 2022.

  
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JOE HEATON  
UNITED STATES DISTRICT JUDGE